

Remarks

At the outset, Applicant's attorney brings to the Examiner's attention the fact that claims 2 and 13-15 are not properly rejected under 35 U.S.C. 102(b), based on the prior art reference O'Connor et al. (2003/0089739). O'Connor et al. was not published more than one year before the filing date of the subject application; O'Connor et al. being published on May 15, 2003 and the subject application being filed on July 10, 2003. O'Connor et al. will be viewed as prior art under 35 U.S.C. 102(e), however, the Applicant reserves its right to swear back of O'Connor et al. with a Rule 131 affidavit.

Regarding the rejection of claims 1, 2 and 13-16 under 35 U.S.C. 102(b) based upon Abplanalp (6,394,364), the claimed apparatus of rejected claims 1 and 2 differs structurally from Abplanalp in the following respects:

- (a) Abplanalp's system has a rigid (propellant-holding) internal container and a flexible outer container, the direct opposite of the containers of the subject system. This contrast in containers is mandatory for the propellant must be stored in a rigid container. Further, where the propellant is stored in the outer container, the inner container must be flexible in order for the propellant in the outer container to exert pressure on the contents of the inner container and cause the efflux of said contents from the inner container to the discharge orifice.
- (b) the Abplanalp structure utilizes a venturi ejection system to cause flow of the product from the outer container,

whereas, the system of the subject invention effects flow of product from the inner container by propellant pressure on the inner flexible bag when the valve is in an open position.

(c) Contrary to the Examiner's interpretation of Abplanalp, there is not a structure where the exterior of the valve stem has a frusto-conical annular surface and the valve housing has an interior frusto-conical surface which engage in annular sealing contact with each other when the valve stem is deeply depressed for propellant pressure filling to thereby prevent access of propellant into the inner container (bag), as called for in claims 1 and 2 of the subject application. Rather, the Abplanalp structure, as shown in Fig. 5, employs a gasket 51 which seals against a sloping shoulder 50 on the exterior of the valve stem 19 to seal off side ports 49 during propellant filling. As is clearly shown in Fig. 5 of the subject application, the valve stem 19 at its lower end is not wide enough to mate and seal against the valve housing at the position where gasket 51 is disposed.

(d) Finally, in contrast to the structure and claims 1 and 2 of the subject invention, Abplanalp has a propellant filling orifice 41 through the housing side wall 20 axially below the valve stem gasket 46.

The structure of the subject invention achieves prevention of flow, during propellant filling, into the inner container (bag) by an entirely different structure, namely, disposing annular frusto-conical surfaces on the exterior of the valve stem and the interior of the housing that mate and seal when the valve is deeply

depressed during propellant filling. See Fig. 2 of the subject application.

For the reasons set forth above and the further amendment herein of claims 1 and 2 to clarify the structural differences between Abplanalp and the subject invention, it is hereby requested that the Examiner withdraw his rejection of claims 1 and 2. Additionally, since claims 13-16 depend upon independent claims 1 and 2 and therefor incorporate into said claims 13-16, the limitations of independent claims 1 and 2, the reasons for withdrawing the rejection of claims 1 and 2 based on Abplanalp are equally applicable to claims 13-16.

Regarding the rejection of claims 2 and 13-15 based on O'Connor et al., the claimed apparatus of claims 2 and 13-15 differs from O'Connor et al. in the following respects:

(a) In O'Connor et al., the dispensing system employs dual containers, each storing a separate product, which separate products are not to be admixed until dispensed through the discharge nozzle. Both separated products are discharged simultaneously by propellant pressure against a piston-like member (15 in Fig. 1) which forces both separate products toward the discharge orifice when the valves on the two containers storing the separate products are opened.

In the subject invention, there are not separate products but only one product in the inner container (bag). Further, there is not a discharge of both separated products as in O'Connor, et al. but only discharge from the inner container (bag).

(b) In O'Connor, et al., contrary to the Examiner's view, there is not an annular exterior frusto-conical surface on the valve stem which seals against an annular frusto-conical surface on the interior of the valve housing to preclude propellant from passing into the inner container (bag) during filling of the system with propellant. First of all, in the O'Connor system, there is not a need for such preclusion for reason that the propellant is filled through a grommet (not shown) in the base of the outside container, the propellant being precluded from contact with either of the stored products by containment in an area of the outside container bounded by the base and sidewall of the outside container and a slidable piston disposed therein. Secondly, O'Connor et al. does not disclose a valve stem having an exterior frusto-conical surface that mates and seals with a frusto-conical surface on the interior of the valve housing. The abutting surfaces 129 and the lower end of the valve stem 124 are not frusto-conically shaped and it is submitted are necessarily in a slidable relation to each other, otherwise the ports 125 could not be lowered (See Fig. 11A) when the valve controlling product egress from each of the containers is opened. For the above reasons and the further amendment of claim 2, it is hereby requested that the Examiner withdraw his rejection of claim 2 based upon O'Connor et al.

Further, claim 13 is dependent on claim 1, and the Examiner has not rejected claim 1 based upon O'Connor et al. Therefore, the rejection of claim 13 based upon O'Connor should be withdrawn. Moreover, claims 14 and 15 are dependent upon claim 2 and the

reasons advanced above to support withdrawal of the rejection of claim 2 based upon O'Connor et al. are equally applicable to the withdrawal of the rejection of claims 14 and 15 based upon O'Connor et al.

In sum, it is submitted that each of the pending claims in the subject application are in condition for allowance and such action is hereby requested.

Respectfully submitted,

KILGANNON & STEIDL
Attorneys for Applicant

By:

Daniel H. Steidl
Daniel H. Steidl-Reg. No. 22,098
85 Pondfield Road
Bronxville, New York 10708
Telephone: (914) 961-9460